

Michigan Department of Licensing and Regulatory Affairs
Office of Regulatory Reinvention
611 W. Ottawa Street; 2nd Floor, Ottawa Building
PO Box 30004; Lansing, MI 48909
Phone (517) 335-8658 FAX (517) 335-9512

**REGULATORY IMPACT STATEMENT
and
COST-BENEFIT ANALYSIS**

PART 1: INTRODUCTION

In accordance with the Administrative Procedures Act (APA) [1969 PA 306], the department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions should be made by the departmental Regulatory Affairs Officer (RAO) to **orr@michigan.gov**. The ORR will review the form and send its response to the RAO (see last page). Upon review by the ORR, the agency shall make copies available to the public at the public hearing [MCL 24.245(4)].

Please place your cursor in each box, and answer the question completely.

ORR-assigned rule set number:

2013-070 LG

ORR rule set title:

Gas Safety Standards

Department:

Licensing and Regulatory Affairs

Agency or Bureau/Division

Michigan Public Service Commission

Name and title of person completing this form; telephone number:

Sally Wallace, Administrative Law Specialist; 517-241-6017

Reviewed by Department Regulatory Affairs Officer:

Elizabeth Arasim
Department of Licensing and Regulatory Affairs

PART 2: APPLICABLE SECTIONS OF THE APA

MCL 24.207a “Small business” defined.

Sec. 7a.

“Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.”

MCL 24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).

Sec. 40.

(1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

(a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.

(b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

(c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.

(d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

(a) 0-9 full-time employees.

(b) 10-49 full-time employees.

(c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

MCL 24.245 (3) “Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** containing...” (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5.]

MCL 24.245b Information to be posted on office of regulatory reinvention website.

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
- (b) Instructions on any existing administrative remedies or appeals available to the public.
- (c) Instructions regarding the method of complying with the rules, if available.
- (d) Any rules filed with the secretary of state and the effective date of those rules.

(2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

PART 3: DEPARTMENT/AGENCY RESPONSE

Please place your cursor in each box, and provide the required information, using complete sentences. Please do not answer the question with “N/A” or “none.”

Comparison of Rule(s) to Federal/State/Association Standards:

(1) Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist. Are these rule(s) required by state law or federal mandate? If these rule(s) exceed a federal standard, please identify the federal standard or citation, and describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

These rules are required by state and federal law if Michigan intends to continue to operate its own gas safety program. 49 USC 60105(b)(2); MCL 483.152. These amended rules adopt by reference the current federal gas safety standards as set forth in 49 CFR parts 191, 192, and 199. In addition, these rules adopt updated technical standards.

One additional rule, R 460.20332 was added to provide more guidance and a timeline for removal or discontinuation of indoor gas facilities in abandoned structures, as is required by 49 CFR 192.727. These facilities, if not timely removed, pose a significant threat to public safety.

(2) Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities. If the rule(s) exceed standards in those states, please explain why, and specify the costs and benefits arising out of the deviation.

The Michigan Gas Safety Standards mirror the gas safety rules in other 49 states that operate gas safety programs.

(3) Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s). Explain how the rule has been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

As part of this revision, R 460.20318(2) was amended to incorporate a gas safety rule that is currently in the Gas Technical Standards, and which is more appropriately included as part of the Gas Safety Standards. This rule will be removed from the Gas Technical Standards as part of a revision that is expected to be completed this year.

Purpose and Objectives of the Rule(s):

(4) Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s). Describe the difference between current behavior/practice and desired behavior/practice. What is the desired outcome?

The majority of the revisions do not promulgate any new conduct prohibition; they simply revise the current rules to incorporate recent amendments to the federal rules. The proposed amendments also make minor changes to Michigan rules so that the language in these rules conforms more closely to the federal rules. No behavioral changes are expected.

R 460.20332 is being added concerning discontinued and inactive gas service lines due to the increase in the number of abandoned structures in Michigan since 2008. These service lines, especially those connected to indoor facilities, pose a significant threat to public safety if not properly disconnected from the source of gas or abandoned in a timely manner. This rule was added to address this particular safety concern with more specificity than the federal rule. Only one utility (DTE Gas Company) is expected to be significantly affected by this rule. DTE Gas Company is one of the oldest gas distribution

companies in Michigan and has many more indoor meters than other, newer gas companies. Within one to two years, this utility, which was consulted and provided input to the rule, expects to be in full compliance with the requirements of this rule.

(5) Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule. What is the rationale for changing the rule(s) and not leaving them as currently written?

As noted, federal law requires these rules to be updated every two to three years. In addition, failure to adopt the amendments to the federal standards would have no effect on regulated entities, because they are required to comply with the federal regulations, whether the regulations are enforced by state or federal authorities.

(6) Describe how the proposed rule(s) protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

Natural gas transportation and distribution, if not conducted in a safe manner, poses a significant threat to the health, safety, and welfare of Michigan citizens. Failure to adopt the amendments to the federal standards would have no effect on regulated entities, because they are required to comply with the federal regulations, whether the regulations are enforced by state or federal authorities. Thus, these rules do not impose any additional burden on those required to comply.

(7) Describe any rules in the affected rule set that are obsolete, unnecessary, and can be rescinded.

Due to the frequency of the updates of these rules, none of the rules are obsolete or unnecessary.

Fiscal Impact on the Agency:

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, an increase in the cost of a contract, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It would not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

(8) Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings on the agency promulgating the rule).

The MPSC spends approximately \$4000 on publication of notices for rulemaking and holding a public hearing. Some additional training of the MPSC gas safety staff will be undertaken to educate staff on any changes to the federal requirements. Training is largely provided by the US Department of Transportation, Pipeline and Hazardous Materials Safety Administration, with minimal fiscal impact on the MPSC.

(9) Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

No additional funds are required for implementation of the proposed rules.

(10) Describe how the proposed rule(s) is necessary and suitable to accomplish its purpose, in relationship to the burden(s) it places on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts. So despite the identified burden(s), identify how the requirements in the rule(s) are still needed and reasonable compared to the burdens.

Failure to adopt the amendments to the federal standards would have no effect on regulated entities, because they are required to comply with the federal regulations, whether the regulations are enforced by state or federal authorities. Thus, these rules do not impose any additional burden on those required to comply.

Impact on Other State or Local Governmental Units:

(11) Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions on other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Please include the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring.

These rules are implemented by gas utilities and gas transportation companies; the rules do not affect state or local government revenues or costs.

(12) Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s). Describe any actions that governmental units must take to be in compliance with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

These rules do not impose any duty or responsibility on any city, county, town, village, or school district.

(13) Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rule(s).

These rules do not require any additional funds for state or local government units.

Rural Impact:

(14) In general, what impact will the rules have on rural areas? Describe the types of public or private interests in rural areas that will be affected by the rule(s).

Pipeline operators in rural areas (primarily in Northern Michigan) will be affected by these rules. However, as previously noted, failure to adopt the amendments to the federal standards would have no effect on regulated entities in rural areas, because they are required to comply with the federal regulations, whether the regulations are enforced by state or federal authorities.

Environmental Impact:

(15) Do the proposed rule(s) have any impact on the environment? If yes, please explain.

These rules and amendments focus on infrastructure safety and do not concern the environment.

Small Business Impact Statement:

[Please refer to the discussion of “small business” on page 2 of this form.]

(16) Describe whether and how the agency considered exempting small businesses from the proposed rules.

These rules only apply to natural gas utilities and natural gas pipeline operators. Approximately 80% of the gas transportation and pipeline businesses regulated by the MPSC are small businesses. These businesses are subject to the same federal regulations as larger businesses, and thus are subject to the same state regulations. Federal regulations apply uniformly to all regulated entities, although there are some limited exemptions for small operators in the federal rules. Regulated entities are already in compliance with the standards adopted by this rulemaking.

(17) If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rule(s) on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rule(s) upon small businesses as described below (in accordance with MCL 24.240(1)(A-D)), or (b) the reasons such a reduction was not lawful or feasible.

Because these rules concern health, safety, and welfare of the public, the rules are applied uniformly across all businesses engaged in the transportation or distribution of natural gas.

(A) Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

Approximately 40 small businesses are affected by these rules.

(B) Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

No additional reporting, recording-keeping, or other administrative costs are implicated by these rule amendments.

(C) Describe how the agency consolidated or simplified the compliance and reporting requirements and identify the skills necessary to comply with the reporting requirements.

There are no changes to the compliance and reporting requirements implicated by these rule amendments

(D) Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

These rules involve standards for gas system design and operation and are mandated by state and federal law, thus no performance standards can substitute for the rules.

(18) Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

Failure to adopt the adjustments to the federal standards would have no effect on regulated entities, small or large, because all transporters and distributors of natural gas are required to comply with the federal regulations, whether they are enforced by state or federal authorities. Thus, there is no disproportionate impact on small businesses.

(19) Identify the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule(s).

There are no additional costs for reporting under these rule amendments.

(20) Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

There are no additional costs for compliance under these rule amendments

(21) Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

There are no additional costs for legal, consulting, or accounting under these rule amendments.

(22) Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no additional costs to small businesses.

(23) Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

Lesser standards cannot be set for small business.

(24) Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

Lesser standards cannot be set for small business.

(25) Describe whether and how the agency has involved small businesses in the development of the proposed rule(s). If small business was involved in the development of the rule(s), please identify the business(es).

No small businesses were directly involved in the development of the proposed rule amendments;

however, a representative of the Michigan Gas and Electric Association, who does represent small gas distribution operators, was extensively involved in the process of developing the rules.

Cost-Benefit Analysis of Rules (independent of statutory impact):

(26) Estimate the actual statewide compliance costs of the rule amendments on businesses or groups. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s). What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

Because the gas safety standards have been in place for over 50 years, and because any changes to the federal rules are incremental or prospective, the effect on both small and large gas businesses is *de minimus*.

As noted previously, proposed R 460.20332 is being added to address safety concerns with gas distribution facilities located inside abandoned structures. This rule is expected to only affect one large gas distribution utility. Because costs associated with compliance with gas safety standards are generally considered reasonable and prudent expenses, any additional incremental costs of a program to address gas service in abandoned structures will be passed on in utility rates.

(27) Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Please include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping). How many and what category of individuals will be affected by the rules? What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

The estimated compliance cost for R 460.20332 is \$75,000 the first year with costs declining year over year. This cost estimate was provided by DTE Gas Company. Costs will decline year over year as more meters are removed as a result of this rule and because of ongoing, previously approved utility programs that also address meter move-out and service disconnection and abandonment.

(28) Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

There are no cost reductions to any entities as a result of the proposed rules.

(29) Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Please provide both quantitative and qualitative information, as well as your assumptions.

The adoption of updated federal gas safety standards assures that natural gas pipelines and distribution systems are designed, constructed, inspected, and maintained in accordance with the most current standards. Standards for pipeline safety must be updated to address problem areas that have occurred under previous standards, thus better protecting public safety and welfare. Secondary or indirect benefits include savings in legal fees and property damage from the failure of unsafe pipelines or distribution infrastructure.

(30) Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

The proposed amendments to the Michigan Gas Safety Standards will have no effect on business growth and a minimal, likely positive effect on job creation.

(31) Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

Proposed R 460.20332 is being added to address safety concerns with gas distribution facilities located inside abandoned structures. This rule is expected to only affect one large gas distribution utility. As

noted previously, DTE Gas Company is one of the oldest gas distribution companies in Michigan and has many more indoor meters than other, newer gas companies. Within one to two years, this utility, which was consulted and provided input to the rule, expects to be in full compliance with the requirements of this rule. Because costs associated with compliance with gas safety standards generally are considered reasonable and prudent expenses, any additional incremental costs of a program to address gas service in abandoned structures will be passed on in utility rates.

(32) Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of a proposed rule(s) and a cost-benefit analysis of the proposed rule(s). How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rule(s).

Consultation with MPSC Gas Safety Staff and gas safety staff from regulated entities.

Alternatives to Regulation:

(33) Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. In enumerating your alternatives, please include any statutory amendments that may be necessary to achieve such alternatives.

There are no alternatives to the proposed amendments, if Michigan wishes to continue to regulate gas safety.

(34) Discuss the feasibility of establishing a regulatory program similar to that proposed in the rule(s) that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

There are no alternatives to the proposed amendments, if Michigan wishes to continue to regulate gas safety.

(35) Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rule(s). This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

No alternatives to regulation are available; thus no alternatives were discussed.

Additional Information

(36) As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The MPSC publishes a “Guide to the Michigan Gas Safety Standards” that combines the federal pipeline safety regulations with the Michigan rules in a user-friendly form.

PART 4: REVIEW BY THE ORR

Date Regulatory Impact Statement (RIS) received:

--

Date RIS approved:

ORR assigned rule set number:

Date of disapproval:	Explain:
More information needed:	Explain:

(ORR-RIS March 2014)